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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/901,120      | 07/10/2001  | Wei-Sing Chu         | 2313-118            | 8943             |

6449 7590 05/17/2004

ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
1425 K STREET, N.W.  
SUITE 800  
WASHINGTON, DC 20005

EXAMINER

YANG, NELSON C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1641

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/901,120 | <b>Applicant(s)</b><br>CHU, WEI-SING |  |
|                              | <b>Examiner</b><br>Nelson Yang       | <b>Art Unit</b><br>1641              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 06 April 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 84-91 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 84-91 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment of claim 90 is acknowledged and have been entered.
2. Claims 84-91 are currently pending.

### ***Rejections Withdrawn***

Applicant's arguments, see page 4, filed April 6, 2004, with respect to objections of the drawings have been fully considered and are persuasive. The objection of the drawings has been withdrawn.

Applicant's arguments, see page 4, filed April 6, 2004, with respect to rejection of claim 90 under 35 U.S.C. 112, first paragraph have been fully considered and are persuasive. The rejection of claim 90 under 35 U.S.C. 112, first paragraph has been withdrawn.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 84-91 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al [US 6,168,948]. Anderson et al teaches a system used for processing a sample (oligonucleotide probe array, fig. 49), comprising a reaction chamber (figs. 1-7), an ultrasound transducer (fig.

46), a central processing unit (column 5, lines 33-48), one or more sensors (column 12, lines 30-35), means for heating or cooling the reaction chamber (column 5, lines 51-63), a distributor (a fluid distribution device, fig. 43), a pump (fig. 5), and a means for sampling reaction fluid (fig. 51).

### ***Response to Arguments***

5. Applicant's arguments filed April 6, 2004 have been fully considered but they are not persuasive. Applicant argues that the Anderson et al [US 6,196,948] do not teach an ultrasound transducer as recited in the instant claims, and instead teaches a SAW transducer arrangement and a FPW transducer arrangement. While examiner acknowledges that Anderson et al teach SAW transducers and FPW transducers, it should also be noted that Anderson et al teach that the crystals are driven at 2 MHz for acoustic mixing and hybridization, which would be in the ultrasonic range (above 20,000 Hz) (cols. 66-67, example 5). Anderson et al also teach the operation of a piezoelectric crystal at ultrasonic frequencies (100 kHz to 5 MHz) for lysing cells (column 42, lines 4-30). Since ultrasound transducers are transducers with ultrasonic frequencies, the transducers recited by Anderson et al would thus read upon ultrasound transducers recited in the instant claims.

### ***Conclusion***

6. No claims are allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson Yang whose telephone number is (571) 272-0826. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V Le can be reached on (571)272-0823. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nelson Yang  
Patent Examiner  
Art Unit 1641

  
LONG V. LE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

05/14/04